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Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LAGOTRONICS PHILIPPINES INC.,	:
Warehouse No. 5	:
Themebuilders Compound	:
Sitio Cubol, Brgy, Sapalibutad	:
2009 Angeles City, Pampanga	:
Philippines	:
:	
Plaintiff,	:
v.	:
:	
KERN STUDIOS, LLC,	: No.
1380 Port of New Orleans Place	:
New Orleans, LA 70130	:
:	
Defendant	:

COMPLAINT

PARTIES

1. Plaintiff Lagotronics Philippines Inc. (“Lagotronics”) is a company incorporated and based in the Philippines and Netherlands, with a principal business address of Warehouse No. 5, Themebuilders Compound, Sitio Cubol, Brgy, Sapalibutad, 2009 Angeles City, Pampanga, Philippines.

2. Defendant Kern Studios, LLC (“Kern Studios”) is a Louisiana limited liability company managed by Barry Kern, with a domicile address of 1380 Port of New Orleans Place, New Orleans, LA 70130.

3. Upon information and belief, the members of Kern Studios are Blaine Kern Productions, Inc., a Louisiana corporation with a domicile address of 1380 Port of New Orleans Place, New Orleans, LA 70130 and/or Barry Kern, an adult individual located at 1380 Port of New Orleans Place, New Orleans, LA 70130.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this action in accordance with 28 U.S.C §1332(a)(2), in that there is diversity of citizenship between the Plaintiff, who is a citizen of a foreign state, and Defendant, who is a citizen of a State, and the amount in controversy exceeds \$75,000.

5. Venue is proper in this District in that Kern Studios is subject to this Court’s jurisdiction in this District.

FACTUAL BACKGROUND

6. Lagotronics provides technology and services for manufacturing state-of-the-art amusement park rides, games, and other attractions, including, *inter alia*, dark rides, interactive attractions, walkthrough attractions, virtual & augmented reality experiences and audiovisual & interactive experiences.

7. In doing so, Lagotronics often works with businesses in other countries to manufacture pieces for use in settings such as parades or theme parks.

8. Kern Studios conducts business in Pennsylvania, including within this District.

9. For example, Kern Studios has completed projects for events in Pennsylvania, including parades and other celebrations located within this District, as shown through its own advertisements and promotional materials. Kern Studios has constructed floats for use in the Thanksgiving Day Parade in Philadelphia, as well as the PEEPS Drop in Bethlehem, Pennsylvania. *See Exhibit 1* (depicting projects completed by Kern Studios for events in Philadelphia County and the Lehigh Valley area).

10. In 2020, Lagotronics received an order for the delivery of lights and animatronics from Kern Studios—through Barry Kern—for the delivery of lights and animatronics in 2020 for Universal Studios’ Parade in Beijing, China. The materials to be provided by Lagotronics were for use in multiple floats that were to be shown in this parade.

11. The contractual arrangement between Lagotronics and Kern Studios involved a series of Quotes for each float (collectively, the “Quotes”), which were prepared in May of 2020. *See Exhibit 2.*

12. The Quotes detailed the specific work to be performed and the amount to be paid.

13. On May 20, 2020, the parties entered into an Acknowledgement and Acceptance of Order regarding the materials to be provided for the floats. *See Exhibit 3.*

14. The Acknowledgement and Acceptance of Order reference the Quotes and effectively accepted the terms of each of the Quotes.

15. The Acknowledgment and Acceptance of Order set forth specific information as to each Quote is summarized below:

ACKNOWLEDGEMENT AND ACCEPTANCE OF ORDER

We are in receipt of your order as detailed below:

ITEM NO.	QUOTE NO.	DESCRIPTION	AMOUNT
1	200331JDM01	PONIES (A, B, C)	USD 87,300.00
2	200424JDM01	GLORIA'S BALLOON	USD 76,300.00
3	200424JDM02	KING JULIEN FLOAT	USD 62,200.00
4	200424JDM03	MASTER OX FLOAT	USD 39,100.00
5	200424JDM04	ONION COACH	USD 51,100.00
6	200424JDM05	MR. PING FLOAT	USD 36,600.00
7	200507JDM01	YELLOW CART FLOAT	USD 80,400.00
8	200514JDM01	LANTERN FLOAT	USD 204,500.00
9	200514JDM01	AFRO CIRCUS TENT	USD 152,000.00
SUBTOTAL			USD 789,500.00
LESS: 5% DISCOUNT FROM CONTINGENCY			USD 39,475.00
SUBTOTAL			USD 750,025.00
LESS: EXTRA DISCOUNT			USD 11,501.00
TOTAL AMOUNT			USD 738,524.00

Exhibit 3.

16. Each of the Quotes contains a set of delivery terms and payment terms, which, as to payment, provide as follows:

- Payment:
 - * 50% upon ordering, within 7 days from date of invoice. Note that the work starts upon receipt of payment.
 - * 50% upon project completion prior to shipping, within 7 days from date of invoice.

Exhibit 2.

17. In addition, each Quote contains a provision providing that the agreement is governed by law of the Philippines. *See Exhibit 2.*

18. As evidenced by Barry Kerns' signature on the Acknowledgment and Acceptance of Order, Kern Studios accepted the Acknowledgment and Acceptance of Order and the Quotes and Acknowledgment and Acceptance of Order became the agreement between the parties ("Agreement").

19. As a result of various adjustments to the contract price based on changes that were made, additional work, and the application of various discounts, the final contract price that was invoiced was \$758,369.10. A Statement of Account reflecting the amounts invoiced and paid is attached as Exhibit 4.

20. Lagotronics fulfilled its obligations under the Agreement and made each delivery satisfactorily and on time.

21. Kern Studios failed to make all payments required under the Agreement in accordance with the terms of the Agreement.

22. Kern Studios has paid Lagotronics a net amount of \$609,730 of the total amount invoiced, leaving an outstanding unpaid amount of \$148,639.01. *See Exhibit 4.*

23. Kern Studios has no basis for failing to make the required payments to Lagotronics, which fulfilled its obligations to Kern Studios under the Agreement.

24. As a result, Lagotronics is owed the unpaid balance pursuant to the Agreement.

COUNT I – BREACH OF CONTRACT

(Philippine Law)

25. Lagotronics incorporates herein by reference the foregoing paragraphs as if set forth herein at length.

26. By their express terms, the Quotes required that any disputes related to them are governed by the law of the Philippines. *See Exhibit 2.*

27. Lagotronics and Kern Studios formed a valid and binding contract whereby Kern Studios agreed to pay Lagotronics the full invoiced amount in exchange for the materials provided by Lagotronics.

28. Kern Studios breached the terms of the Agreement by failing to pay fully for the materials for the floats that were supplied by Lagotronics.

29. Lagotronics is entitled to recover the full payment owed to it by Kern Studios.

30. Lagotronics may also recover interest as an element of its damages, which under law of the Philippines, is the prevailing legal rate in place at the time the parties entered into the Agreement.

31. The damages that Lagotronics is entitled to recover from Kern Studios arise from Kern Studios' breach of the Agreement and are in excess of \$75,000.

32. In addition, Lagotronics may recover its reasonable attorney's fees spent in pursuing recovery of the aforementioned amount where the Court deems it just and equitable that attorney's fees and litigation expenses should be recovered. *See Antonio et al. v. Court of Appeals & Sugar Producers Cooperative Mktg. Ass'n*, G.R. No. 143584, n.17 (Mar. 10, 2004) (Phil.). Lagotronics asserts that it would be just and equitable for the Court to award attorney's fees and litigation expenses in this matter since Lagotronics should not have been required to retain an attorney to seek to recovery undisputed amounts owed by Kern Studios.

33. In accordance with the terms of the Agreement, Kern Studios is liable to Lagotronics for the amount owed to Lagotronics under the Agreement, as well as interest and Lagotronics' costs of collection, including Lagotronics' court costs and reasonable attorney's fees, for Lagotronics' pursuit of this claim.

WHEREFORE, Plaintiff Lagotronics Philippines Inc. demands judgment in its favor and against Defendant Kern Studios, LLC for an amount in excess of \$75,000, together interest, attorney's fees, expenses and costs.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By /s/ Jonathan H. Rudd

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